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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,349	12/18/2001	Grant Hay	120644-1	4828
23413	7590	08/23/2006	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			HESS, BRUCE H	
			ART UNIT	PAPER NUMBER

1774

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,349

Applicant(s)

HAY ET AL.

Examiner

Bruce H. Hess

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6-8-06 (RCE).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO-957/98)
Paper No(s)/Mail Date 7-24-06 and 6-8-06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 1-83 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 51-75 of copending Application No. 11/102,068. Although the conflicting claims are not identical, they are not patentably distinct from each other because the same materials having the same positional relationships and radial deviation are recited in the claims of the aforementioned application.

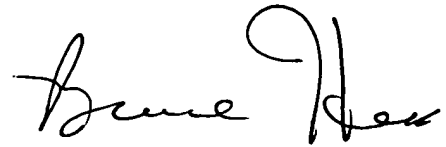
This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 1-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Daecher et al. (USP 6,183,829).

This patent teaches storage media having a plastic substrate, a data storage layer and a reflective layer. The substrate can comprise several layers (i.e. "one or more") of the same resins employed by applicants (see column 2, lines 29-31 and column 13, line 66 et seq.). Use of layers of different resins would have been obvious to one of ordinary skill in this art since it is logical that the different resins would have the same effect and supplement each other. In re Crockett, 165 USPQ 494. Such a resin laminate would inherently achieve the claimed radial deviation (see the first two lines of paragraph [0074] in applicants' specification). The experimental modification of this prior art in order to ascertain optimum operating conditions (e.g., determine such parameters as layer stiffness and thickness) fails to render applicants' claims patentable in the absence of unexpected results.

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3. Claims 1-18, 21-34, 36-44, 46, 48-58, 62-69, 71-75 and 80-82 are rejected under 35 USC 112 (first paragraph) as being broader than the enabling disclosure as a result of applicants' failure to recite that the optical layer is made of plastic material.

A handwritten signature in black ink, appearing to read "Bruce Hess". The signature is fluid and cursive, with a large, stylized "H" and a long, sweeping underline.

BRUCE H. HESS
PRIMARY EXAMINER
GROUP 1300